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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Tenth session
New York, 10-21 August 1992

STATEMENT OF THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the Plenary dealt with the following matters:

(a) Organization of work;

(b) Preparation of draft agreements, rules, regulations and procedures;

(c) Implementation of resolution II;

(d) The Training Panel;

(e) Provisional reports;

(f) Eleventh session of the Preparatory Commission.

I. ORGANIZATION OF WORK

2. At the summer meeting of the Preparatory Commission, on the recommendation of the General Committee, the Plenary adopted on 10 August 1992 a programme of work for this meeting of the Commission which enabled all the special commissions and the Plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required. In accordance with the decision of the Preparatory Commission, the Training Panel met during the first week simultaneously with the meeting of the Preparatory Commission.

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II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES

3. At its first meeting, held on 11 August 1992, at the suggestion of the Chairman, the Plenary on the Authority adopted its programme of work for the present session. According to that programme the Plenary decided to begin its work with the consideration of the pending functions of the Finance Committee and then to proceed to consider the first paragraph of article 7 on reciprocal representation which was left pending in the draft Agreement concerning the Relationship between the United Nations and the International Seabed Authority. It was agreed that subsequently the Plenary would resume its consideration of the matters related to the administrative arrangements, structure and financial implications of the International Seabed Authority. According to the programme the Plenary was supposed to conclude its work by initiating the examination of the provisional final report. To facilitate discussions on the above issues, it was decided that the Plenary would first address them at the level of the consultations of the Chairman with the interested delegations and that the results of such consultations would be subsequently submitted to the Plenary for its consideration and approval.

4. In accordance with the above programme of work, the Plenary on the Authority commenced its work at the level of consultations, with the consideration of a revised version of function 12, proposed by one delegation at the end of the previous session of the Commission at Kingston. The revised text envisaged that the Finance Committee could make recommendations to the Council and the Assembly on the rules, regulations and procedures, as proposed by the Governing Board of the Enterprise, on the transfer of funds from the Enterprise to the Authority as well as on the proposal of the Governing Board of the Enterprise concerning the portion of the net income of the Enterprise to be retained as a reserve of the Enterprise. Having discussed the proposal, participants in the consultations agreed that the Finance Committee should make such recommendations to the Assembly and the Council only upon their request. Therefore, it was decided to insert in function 12 the words "upon their request" after the words "the Council and the Assembly".

5. The delegation which at the last session had submitted a revised text of function 12 had also proposed at that session two additional functions (16 and 17) for the Finance Committee. These functions provide for the Finance Committee to make recommendations to the Council and the Assembly on the draft rules relating to the organization, management, appointment and dismissal of the staff of the Enterprise and the Authority respectively. At the consultations it was decided that those recommendations should be made by the Finance Committee only if so requested by the Assembly and the Council. Therefore, as in the case of function 12, it was agreed that the words "upon their request" should be inserted after the words "the Council and the Assembly" in the text of both new functions.

6. The next item considered at the consultations was article 7, paragraph 1, of the Relationship Agreement which was pending (LOS/PCN/WP.50/Rev.2). That article deals with the reciprocal representation of the United Nations and the

Authority in each other's organs. Having discussed the text of article 7, paragraph 1, the participants in the consultations agreed that since the question of the participation of observers in the work of various organs of the Authority was still pending, the text of article 7, paragraph 1, should be amended by making its text more general through the deletion of the reference to particular organs of the Authority. According to this understanding, the text of article 7, paragraph 1, as amended, reads as follows:

> "Representatives of the United Nations shall be entitled to attend, and to participate, without the right to vote, in the meetings of the organs of the Authority and their subsidiary organs, in accordance with their rules of procedure, if matters of interest to the United Nations are under consideration. Written statements submitted by the United Nations shall be distributed by the Secretariat of the Authority to its members, in accordance with the rules of procedure of the organs of the Authority and of their subsidiary organs."

7. As provided for in the programme of work, during the present session the Chairman also conducted consultations with regard to the issues raised in the working paper on the administrative arrangements, structure and financial implications of the International Seabed Authority (LOS/PCN/WP.51).

8. It was agreed that the statement of the Chairman on the subject, contained in paragraph 53 of the progress report of the Chairman of the Preparatory Commission on the Work of the Commission (LOS/PCN/L.103), reflected the general agreement on the principles that should guide the work of the Authority. It was understood that details of those general principles should be worked out at an appropriate time in the future and that at such time due consideration would be given to each of the principles.

9. The results of the above consultations were reported by the Chairman to the Plenary on the Authority and were approved by it at a meeting held on 17 August 1992.

III. IMPLEMENTATION OF RESOLUTION II

10. As had been agreed, the Chairman undertook consultations on the modalities for the implementation of the obligations of the registered pioneer investor, the Interoceanmetal Joint Organization (IOM). On 18 August 1992, the General Committee unanimously adopted the Understanding on the Fulfilment of Obligations by the Registered Pioneer Investor, the Interoceanmetal Joint Organization. The Understanding is contained in the annex to the present statement.

IV. THE TRAINING PANEL

11. At the present session the Training Panel held nine meetings during the first week to consider, inter alia, the revised training programmes of India and the Russian Federation, to select six candidates for the traineeships under the training programmes offered by France and Japan, and to examine, if available, both the training programme of the People's Republic of China and that offered by Germany. The report of the Training Panel is contained in document LOS/PCN/BUR/R.17.

12. The revised training programmes offered by India (LOS/PCN/TP/1992/CRP.8 and Corr.1) and the Russian Federation (LOS/PCN/TP/1992/CRP.11) and a draft note verbale (LOS/PCN/BUR/R.19) announcing the six traineeships under those programmes were approved by the Panel.

13. The Panel selected six candidates for the traineeships under the training programmes offered by France and Japan, i.e., two candidates from two African countries, one candidate from one country of the Latin American and the Caribbean region and three candidates from three Asian countries. In the absence of qualified candidates for the traineeship in naval engineering offered under the French training programme, it was decided to defer that traineeship and transfer it to one in mining geology. The names of the candidates selected by the Panel and recommended for designation by the Preparatory Commission in respect of the traineeships under the training programmes offered by France and Japan are contained in document LOS/PCN/BUR/R.18. The Panel was not able to resolve the question of whether nominees from countries which are now registered pioneer investors should be considered for the training programmes offered by other registered pioneer investors. It requested the General Committee to take a decision on this matter (LOS/PCN/BUR/R.17).

14. The representative of the People's Republic of China informed the Panel that his Government's training programme would be presented at the next session at Kingston. The representative of Germany informed the Panel that his Government's training programme, offering three or four traineeships, would also be presented at that time (ibidem).

15. On 20 August 1992, the General Committee considered the report of the third meeting of the Training Panel and took note of it. It approved the recommendation and designated the six candidates selected by the Panel for the traineeships under the training programmes offered by France and Japan. The General Committee also took note of the note verbale on the training programmes offered by India and the Russian Federation.

16. On the question of whether nationals from certifying States of registered pioneer investors should be selected for training programmes offered by other registered pioneer investors, the Chairman of the Preparatory Commission informed the General Committee that he would undertake consultations on the issue at the beginning of the next session at Kingston. The Training Panel will meet during the first week of the eleventh session at Kingston.

V. PROVISIONAL REPORTS

17. The Preparatory Commission will hold a two-week session at Kingston to consider the provisional reports of the special commissions and of the Informal Plenary.

18. At that meeting the Chairman will undertake consultations with all the parties involved as to the future work of the Preparatory Commission, including any interim arrangements.

VI. ELEVENTH SESSION OF THE PREPARATORY COMMISSION

19. The Chairman undertook consultations with the Chairmen of the regional groups on the dates of the eleventh session. It was decided to hold the eleventh session of the Preparatory Commission at Kingston from 22 March to 2 April 1993. It was also decided that the Training Panel will meet during the first week simultaneously with the meeting of the Preparatory Commission.

Annex

UNDERSTANDING ON THE FULFILMENT OF OBLIGATIONS BY THE REGISTERED PIONEER INVESTOR, THE INTEROCEANMETAL JOINT ORGANIZATION (IOM) AND ITS CERTIFYING STATES, THE REPUBLIC OF BULGARIA, THE REPUBLIC OF CUBA, THE CZECH AND SLOVAK FEDERAL REPUBLIC, THE REPUBLIC OF POLAND AND THE RUSSIAN FEDERATION

1. This understanding applies to the registered pioneer investor, the Interoceanmetal Joint Organization (IOM) and its certifying States, the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Russian Federation.

2. The pioneer investor shall provide training pursuant to paragraph 12 (a) (ii) of resolution II in conformity with the specific programme for training approved by the Preparatory Commission in accordance with the principles, policies, guidelines and procedures contained in documents LOS/PCN/SCN.2/L.6/Rev.1 and LOS/PCN/SCN.2/L.7, taking into account the report contained in document LOS/PCN/BUR/R.6. It is agreed that the cost of such training shall be borne by the registered pioneer investor and shall be free of cost to the Preparatory Commission. The precise number of trainees, the duration and the fields of training shall be agreed upon between the Preparatory Commission and the registered pioneer investor according to its capabilities. It is further agreed that the first group of trainees shall consist of no less than four individuals.

3. In accordance with paragraph 12 (a) (iii) of resolution II, the registered pioneer investor undertakes to perform the obligations prescribed in the United Nations Convention on the Law of the Sea relating to the transfer of technology, and further agrees that training in the use of all available technology shall constitute a substantial component of the training programme referred to in paragraph 2.

4. The periodic expenditures for exploration to be incurred in accordance with paragraph 7 (c) of resolution II by the registered pioneer investor in respect of the development of the pioneer area shall be determined by the Preparatory Commission in consultation with and with the cooperation of the registered pioneer investor within 12 months of the adoption of this understanding. Such expenditures shall be reviewed by the Preparatory Commission from time to time in consultation with and with the cooperation of the registered pioneer investor.

5. The certifying States agree to provide, in accordance with paragraph 12 (b) (ii) of resolution II, periodic reports to the Commission on the pioneer activities as defined in paragraph 1 (b) of resolution II, carried out by them, by their entities or natural or juridical persons in their pioneer area. Such reports shall be provided annually.

6. The Commission recognizes that the obligation of the certifying States under paragraph 12 (b) (i) of resolution II is to be implemented upon the entry into force for those States of the United Nations Convention on the Law of the Sea.

7. The registered pioneer investor, the Interoceanmetal Joint Organization (IOM), will undertake, if so requested by the Preparatory Commission, a programme of exploration in accordance with the provisions of paragraph 12 (a) (i) of resolution 1I, of one mine site for the Enterprise in the area designated as the reserved area for the conduct of activities by the Authority.

8. The registered pioneer investor, Interoceanmetal Joint Organization (IOM), on the basis of the available data collected by it in the area reserved for the Authority, shall provide free of cost to the Preparatory Commission:

Computerized database disks for samples, including:

(i) The establishment of comprehensive computerized database disks for samples stations;

(ii) Data on station number, coordinates, depth, abundance, metal content, device and information on the source of the data; allowing the raw data to be statistically manipulated and presented on various types of maps and graphs.

9. The obligation of the registered pioneer investor, Interoceanmetal Joint Organization (IOM), under the provisions of paragraph 7 (b) of resolution II shall be waived as of the date of the registration.

10. Within three months of the date of deposit of the sixtieth instrument of ratification or accession, the Group of Technical Experts established in accordance with paragraph 6 of document LOS/PCN/L.41/Rev.1, annex, shall review the state of the deep seabed mining and make an assessment of the time when commercial production may be expected to commence. If, as a result of the review and the assessment, the Group of Technical Experts concludes that commercial production will not take place for an extended period of time, the Preparatory Commission shall recommend to the Authority that the annual fixed fee payable under annex III, article 13, paragraph 3, be waived for a relevant period.

11. Taking into account paragraph 19 (e) of the statement on the implementation of resolution II (LOS/PCN//L.41/Rev.1, annex), paragraph 17 of LOS/PCN/L.87, annex, paragraph 11 of LOS/PCN/L.102, annex, and the present understanding, as well as the relevant characteristics and merits of each application, the Preparatory Commission or the Authority shall enter into arrangements similar to those contained in the above understandings with any other registered pioneer investor or future applicant.